

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	Criminal No. 02 Cr. 1393
v.	:	Filed: 10/25/02
JOHN CHESSA,	:	Violations: 18 U.S.C. § 371
Defendant.	:	

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INFORMATION

The United States of America, acting through its attorneys, charges:

1. John Chessa ("Chessa") is hereby made a defendant on the charges stated below.

COUNT ONE -- CONSPIRACY TO COMMIT MAIL FRAUD  
(18 U.S.C. § 371)

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Chessa, a resident of Yorktown Heights, New York, was a co-owner of a printing company ("CC-1") located in Manhattan, New York that supplied printing to one of its clients, Grey Global Group, Inc., or its predecessors or affiliates, including Grey Advertising, Inc. (collectively "Grey").

3. Grey, headquartered in Manhattan, New York, provided advertising, marketing, public relations, and media services. Grey was one of the largest advertising agencies in the world, with as many as 12,000 employees and offices in 90 countries. Grey, which had approximately \$8.3 billion in billings in 2000, had a client roster that included major consumer brand companies such as Brown & Williamson Tobacco Corp., The Procter & Gamble Co., GlaxoSmithKline p.l.c., Mars Inc., Hasbro, Inc., Eli Lilly & Co., 3M Co., and Joseph E. Seagram & Sons, Inc.

4. Joseph Panaccione, aka Joe Payne (“Panaccione”), was a co-conspirator who was an employee of Grey. While employed by Grey, Panaccione held several positions; most recently, he was employed as a vice president and a manager of graphic services at Grey.

5. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They include a Grey executive and certain Grey employees whose primary responsibility was overseeing prepress services and printing.

## II. DEFINITIONS

6. “Separation” is the act of decomposing an image or photograph into single-color layers, so that it may be printed with a printing press.

7. “Prepress services” are the services and materials necessary to provide magazines and other print media with the images that they manufacture and publish. These services include retouching and separation services.

8. “Printing” is the use of a printing press to produce multiple, printed copies of images inserted in print media or otherwise distributed to potential consumers.

9. “Graphic services” encompasses both prepress services and printing.

## III. BACKGROUND

10. Grey developed advertising and marketing campaigns on behalf of its clients. Some of the advertising that Grey developed appeared in printed form, such as advertisements consisting of pictures and words in magazines. On behalf of its clients, through its graphics services department, Grey contracted with third parties that were suppliers of graphics services (“graphics suppliers”) to provide services and materials related to advertising that appeared in print, including

prepress services and printing.

11. Pursuant to agreements with certain of its clients, Grey was paid a fee for its creative work on behalf of the client, and for its supervision of the production of various components of a campaign, including supervision of prepress services and printing. In addition, pursuant to express written agreements with certain of its clients, Grey paid third parties, and was reimbursed by its clients, for “out-of-pocket” costs, including the actual costs of prepress services and printing provided by graphics suppliers. Typically, Grey received no markup or other profit on these “out-of-pocket” costs. Grey’s clients relied on Grey’s representations regarding the accuracy of the bills it presented for reimbursement or the amounts for which it sought reimbursement.

12. The advertising Grey developed and produced for each client often consisted of many separate jobs, with separate, corresponding contracts between Grey and various third party graphics and printing suppliers. In many cases, Grey provided the initiative and exercised its discretion in selecting a graphics supplier and awarding a contract for a particular job or a related group of jobs (a “campaign”) after seeking what purported to be competitive bids from multiple graphics and printing suppliers. Usually, by the time a contract was awarded, Grey and its client had established a budget for the job, in part by referring to the prices quoted by the competing graphics suppliers. Employees of Grey’s graphics services department were responsible for monitoring jobs to determine whether they would be completed within the established budgets and, if not, for seeking the client’s approval to increase the budgets. The actual value of work done in connection with each job ultimately could be lower than, equal to, or higher than the established budget.

13. The graphics suppliers issued invoices to Grey, corresponding to the contracts they had been awarded, when those contracts were completed. Employees of Grey’s graphics services

department were responsible for reviewing the invoices for accuracy and authorizing them for payment. In situations where the graphics supplier's price for the work exceeded the budget for a particular job, the supplier often knew, at the time it was prepared to seek payment, that it would not be paid in full for the work it had done.

#### IV. DESCRIPTION OF THE OFFENSE

14. From approximately 1991 until approximately mid-2000, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, the defendant and co-conspirators unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States of America, to wit, to violate Title 18, United States Code, Section 1341, in violation of Title 18, United States Code, Section 371.

15. It was a part and an object of the conspiracy that the defendant and others known and unknown, having devised and intending to devise a scheme and artifice to defraud clients of Grey, and for obtaining money and property from Grey clients by means of false and fraudulent pretenses, representations, and promises, unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and take and receive therefrom, such matters and things, and knowingly cause to be delivered by mail and such carriers according to the directions thereon, and at the place at which they were directed to be delivered by the persons to whom they were addressed such matters and things, in violation of Title 18, United States Code, Section 1341.

V. THE MANNER AND MEANS BY WHICH THE  
CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

16. Beginning in approximately 1991, Chessa agreed with certain co-conspirators to defraud certain Grey clients by causing CC-1 to issue false and fraudulent invoices relating to its contracts to produce graphic services and materials for advertising. Typically, the invoices were false and fraudulent in that the quantities -- and thus the prices -- of certain line items listed in the invoices were inflated to allow CC-1 to recoup three specific types of expenses:

(a) Certain invoices were inflated to allow CC-1 to recoup the cost of goods and services it had provided for the personal benefit of Panaccione, other senior employees and executives of Grey, and members of their families. Those goods and services included the printing of graphics items such as wedding invitations, holiday cards, brochures, and family and other personal photographs; and

(b) Certain invoices were inflated to allow CC-1 to recoup charges for work it had performed on earlier jobs, frequently for different Grey clients, for which it had not been fully paid. In these instances, CC-1 had not received full compensation for the earlier work performed because those jobs had run overbudget, or because the client that had commissioned the advertising was unable to pay its bills because it was bankrupt.

17. A Grey executive instructed Panaccione to identify jobs which could be fraudulently inflated by increasing the quantities and prices of certain line items in those jobs.

18. Between approximately 1991 and mid-2000, Chessa created and maintained lists of expenses, as described in Paragraph 16 above, and discussed the lists with Panaccione.

Panaccione then identified which jobs should be inflated and, in many cases, exactly where and how on the false and fraudulent invoices the inflated charges should appear. On many occasions, Panaccione consulted with other employees in Grey's graphics services department in order to identify the jobs to which monies could be added, normally in situations where the job was expected to run under budget or where the job had not yet been budgeted but CC-1 could be given an opportunity to increase its bid or price quotation.

19. Between approximately 1991 and mid-2000, Chessa and co-conspirators caused CC-1 to issue to Grey numerous false and fraudulent invoices.

20. A Grey executive, Panaccione, and co-conspirators further caused Grey to pay the false and fraudulent invoices and then to seek reimbursement from its clients.

21. Certain of the checks issued by Grey to CC-1 in payment of the false and fraudulent invoices were sent via the United States mail.

22. Certain of Grey's invoices issued to its clients requesting reimbursement for Grey's payment of fraudulently inflated invoices issued by CC-1 and corresponding checks issued by Grey's clients in payment of the Grey invoices, were sent via the United States mail or by private or commercial interstate carrier.

## VI. OVERT ACTS

23. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

(a) On numerous occasions between 1991 and mid-2000, pursuant to the charged conspiracy, Chessa and his co-conspirators caused CC-1 to issue fraudulently inflated invoices to

Grey, and Grey to issue checks in payment of those invoices to CC-1. Some of those invoices and checks were sent through the United States mails; and

(b) On numerous occasions between 1991 and mid-2000, co-conspirators caused Grey to issue invoices to its clients requesting reimbursement for those fraudulently inflated invoices received from CC-1 and, in turn, Grey's clients sent checks in payment of those invoices to Grey. Some of those invoices and checks were sent through the United States mails.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

COUNT TWO -- CONSPIRACY TO COMMIT MAIL FRAUD  
(18 U.S.C. § 371)

The United States of America further charges:

24. Paragraph 1 and Paragraphs 2 through 4 and 6 through 9 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

VII. THE RELEVANT PARTIES AND ENTITIES

25. Co-conspirators, not made defendants herein, participated in the offense charged herein and performed acts and made statements in furtherance thereof. They included Panaccione and CC-1.

VIII. DESCRIPTION OF THE OFFENSE

26. From approximately November 1999 and until approximately December 2000, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, the defendant and co-conspirators unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 1341 and

1346, in violation of Title 18, United States Code, Section 371.

27. It was a part and an object of the conspiracy that the defendant and others known and unknown, having devised and intending to devise a scheme and artifice to defraud Grey and Grey's clients, and for obtaining money and property from Grey and Grey's clients by means of false and fraudulent pretenses, representations, and promises, and to deprive Grey and Grey's clients of their intangible right of honest services of certain of Grey's employees, unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and take and receive therefrom, such matters and things, and knowingly cause to be delivered by mail and such carriers according to the directions thereon, and at the place at which they were directed to be delivered by the persons to whom they were addressed such matters and things, in violation of Title 18, United States Code, Sections 1341 and 1346.

IX. THE MANNER AND MEANS BY WHICH THE  
CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

28. During all or some of the period from approximately November 1999 until approximately December 2000, Chessa paid Panaccione kickbacks in cash and checks totaling approximately \$46,675. The kickbacks were unknown to Grey and Grey's clients, who expected that Grey's employees would act in accordance with Grey's fiduciary obligation when awarding contracts to vendors. Chessa paid these kickbacks roughly calculated according to a percentage,



usually 2% or 3%, of the total value of CC-1's invoices paid by Grey. Chessa paid these kickbacks to ensure that CC-1 would remain on Grey's list of approved suppliers and that Grey would not seek an alternative supplier, and so that Panaccione would cause Grey to allocate to CC-1 a significant portion of Grey's total purchases of printing. As a result, other, legitimate printing suppliers were foreclosed from selling to Grey, and CC-1's prices were not set in response to open and honest competition from other vendors.

#### X. OVERT ACTS

29. In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

(a) On numerous occasions between November 1999 and December 2000, Chessa and co-conspirators caused Grey to issue purchase orders, and caused CC-1 to issue invoices relating to the sale of printing to Grey. Some of those invoices and purchase orders were sent through the

United States mails; and

(b) On one occasion in late 1999, Chessa paid approximately \$10,000 in cash to Panaccione in Manhattan.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

Dated:

/s/\_\_\_\_\_  
CHARLES A. JAMES  
Assistant Attorney General

/s/\_\_\_\_\_  
RALPH T. GIORDANO  
Chief, New York Office

/s/\_\_\_\_\_  
JAMES M. GRIFFIN  
Deputy Assistant Attorney General

/s/\_\_\_\_\_  
REBECCA MEIKLEJOHN

/s/\_\_\_\_\_  
SCOTT D. HAMMOND  
Director of Criminal Enforcement

/s/\_\_\_\_\_  
DOUGLAS M. TWEEN

Antitrust Division  
U.S. Department of Justice

/s/\_\_\_\_\_  
ELIZABETH B. PREWITT

/s/\_\_\_\_\_  
JAMES B. COMEY  
United States Attorney  
Southern District of New York

Attorneys, Antitrust Division  
U.S. Department of Justice  
26 Federal Plaza, Room 3630  
New York, New York 10278  
(212) 264-0654